

BEFORE THE PRE-TRIAL CHAMBER OF THE  
EXTRAORDINARY CHAMBERS IN THE COURTS OF CAMBODIA

19

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IENG THIRITH APPEAL AGAINST OFFICE OF THE CO-INVESTIGATING JUDGES'  
"ORDER ON REQUEST FOR INVESTIGATIVE ACTION" OF 3 APRIL 2009

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**Pre-Trial Chamber Judges:**

Diana ELLIS, QC

PRAK Kimsan, President  
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**Co-Prosecutors:**

CHEA Leang  
Robert PETIT

**បណ្តាញច្បាប់ត្រឹមត្រូវតាមច្បាប់ដើម**  
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du dossier: C.A. Fay

**Civil Party Lawyers**

## I INTRODUCTION AND LAW

1. On 27 March 2009, defence for Nuon Chea filed its “Eleventh Request for Investigative Action” (“**11<sup>th</sup> Investigative Request**”)<sup>1</sup> requesting the Office of the Co-Investigating Judges (“**OCIJ**”) to obtain the so-called OIOS Report and disclose the information contained therein to the defence, as well as certain information relating to this Report.
2. On 30 March 2009, defence for Madame Ieng Thirith filed a motion in support of the above 11<sup>th</sup> Investigative Request (“**IT Support Motion**”).<sup>2</sup> Defence teams for Ieng Sary and Khieu Samphan similarly filed motions in support of the 11<sup>th</sup> Investigative Request.<sup>3</sup>
3. The OCIJ rendered its “Order on Request for Investigative Action” (“**Order**”) relating to the 11<sup>th</sup> Investigative Request on 3 April 2009, denying the request and its supporting motions.
4. In accordance with Rule 75(1) of the Internal Rules, defence for Nuon Chea filed a Notice of Appeal against the Order of 7 April 2009.<sup>4</sup> This was followed by similar notices by the defence teams for Khieu Samphan, Ieng Sary and Ieng Thirith.<sup>5</sup>
5. The defence for Ieng Thirith (hereafter: “**Appellant**”) herewith files submissions on appeal in accordance with Rule 75(3) of the Internal Rules.

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<sup>1</sup> Eleventh Request for Investigative Action, 27 March 2009, Document No. D158.

<sup>2</sup> Motion in Support of Nuon Chea Eleventh Request for Investigative Action for Disclosure of OIOS Report and Related Documents, 30 March 2009, Document No. D158/3.

<sup>3</sup> Ieng Sary’s Motion to Join and Adopt Nuon Chea’s Eleventh Request for Investigative Action, 27 March 2009, Document No. D158/2, and *Déclaration de la Défense aux fins d’adoption de la onzième demande d’acte d’instruction de M. Nuon Chea relative aux allégations de corruption au sein de CETC*, 3 April 2009, Document No. D158/4.

<sup>4</sup> [Nuon Chea] Record of Appeals, 7 April 2009, Document No. D158/5/1.

<sup>5</sup> [Khieu Samphan] Record of Appeals, 9 April 2009, Document No. D158/5/2, [Ieng Sary] Record of Appeals, 10 April 2009, Document No. D158/5/3, and [Ieng Thirith] Record of Appeals, 13 April 2009, Document No. D158/5/4.

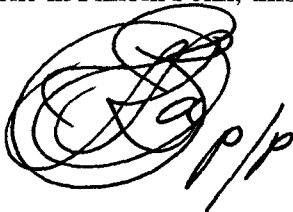
**II ARGUMENTS**

6. Appellant herewith files its appeal against the Order. The Appellant adopts the arguments set out in the “Nuon Chea Appeal against Order on Eleventh Request for Investigative Action” (“**Nuon Chea Appeal**”).

**III PRAYER**

7. For the reasons stated above, the Defence submits that the OCIJ’s rejection of the 11<sup>th</sup> Investigative Request was incorrect as a matter of law, public-policy, and common-sense. Accordingly, the Pre-Trial Chamber should vacate the Order and grant the relief requested at paragraph 22 of the 11<sup>th</sup> Investigative Request. Additionally, as the Nuon Chea Appeal contains no confidential material, this document should be classified by the Pre-Trial Chamber as a public one. Finally, a public oral hearing is requested at the earliest available opportunity.

Done in Phnom Penh, this 4<sup>th</sup> day of May 2009



**Ms. Diana ELLIS, QC**  
International Co-Lawyer  
for IENG Thirith